

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

SECTION 1501.VIOLATION, PENALTY AND ENFORCEMENT

ARTICLE 1501.1. PURPOSE: This chapter identifies what constitutes a violation of this Ordinance, establishes penalties and remedies, and authorizes enforcement procedures.

ARTICLE 1501.2. DEFINITIONS

1501.2.1. **Hearing Officer:** The individual(s) appointed by the Maricopa County Board of Supervisors to hear and decide all civil proceedings established by any Ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under the authority granted by ARS Title 11, Chapter 6 County Planning and Zoning.

1501.2.2. **Zoning Inspector:** The Director of the Maricopa County Planning and Development Department or his/her designated representative.

ARTICLE 1501.3. ZONING INSPECTION AND ENFORCEMENT

1501.3.1. **Duties:** The enforcing officer of this Ordinance shall be the Zoning Inspector, and it shall also be the duty of the Sheriff of Maricopa County and of all officers of said County otherwise charged with the enforcement of law to enforce the provisions of the Ordinance. However, the Zoning Inspector:

1. Shall receive application for zoning clearance as required by this Ordinance.
2. May examine premises for which zoning clearances have been requested.
3. May make necessary inspections to secure compliance with the provisions of this Ordinance.
4. Shall when requested by the Board of Supervisors, or when the interests of Maricopa County so required, make investigations in connection with any matter referred to in this Ordinance and render written reports thereof.
5. Shall further issue such notices or orders as may be necessary for the purpose of enforcing compliance with the provisions of this Ordinance.

1501.3.2. **Inspections:** See Item 1501.3.1.3. ^{*1, **2}

1501.3.3. The Zoning Inspector may adopt rules and procedures consistent with this Ordinance for the implementation thereof. ^{*1, *2}

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

- 1501.3.4. The Zoning Inspector shall keep careful and comprehensive records of applications for zoning clearances, of inspections made, of reports rendered, and of notices or orders issued. He shall further retain on file copies of all papers in connection with zoning clearances for such time as may be required by law. ^{*1, *2}
- 1501.3.5. **Reports:** See Item 1501.3.1.4. ^{**1}
- 1501.3.6. Permits for uses, buildings or purposes where the same would be in conflict with the regulations of this Ordinance shall not be issued and any such permit if issued in conflict with the regulations of this Ordinance shall be null and void. ^{*1}

Date of Revisions			
*1	Revised 12-30-74	*2	Revised 10-3-77
**1	Deleted 12-30-74	**2	Added 10-3-77

SECTION 1502.VIOLATION

ARTICLE 1502.1.

It shall be unlawful to erect, construct, reconstruct, alter or use any building or structure within a zoning district without first obtaining a building permit.

ARTICLE 1502.2.

It shall be unlawful to erect, construct, reconstruct, alter or use any land within a zoning district in violation of any regulation or any provision of any Ordinance pertaining thereto.

ARTICLE 1502.3.

Any such violation shall constitute a public nuisance.

SECTION 1503. PENALTY

ARTICLE 1503.1. CRIMINAL: Any person, firm, or corporation determined to be in violation of any such Ordinance or any part thereof, is guilty of a **class 2 misdemeanor**. Each and every day during which the illegal erection, construction, reconstruction, alteration, maintenance or use continues is a separate offense.

ARTICLE 1503.2. CIVIL: Any person, firm, or corporation determined to be in violation of any such Ordinance or any part thereof, is guilty of a civil penalty. Each and every day during which the illegal erection, construction,

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

reconstruction, alteration, maintenance or use continues is a separate offense. Civil penalties shall not exceed the amount of the maximum fine for a **class 2 misdemeanor**. If an alleged violator is served with a notice of violation, he shall not be subject to a criminal charge arising out of the same facts.

ARTICLE 1503.3. OTHER REMEDIES: If any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used in violation of any Ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under ARS Title 11 Chapter 6 County Planning and Zoning, the Board of Supervisors, County Attorney, Zoning Inspector, or any adjacent or neighboring property owner who is specially damaged by the violation, in addition to the other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent or abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use.

SECTION 1504.ENFORCEMENT

ARTICLE 1504.1. WITHHOLDING OF PERMITS: The Zoning inspector shall withhold the issuance of any and all permits when it appears that the proposed erection, construction, reconstruction, alteration, maintenance or use does not fully conform to any Ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under ARS Title 11 Chapter 6 County Planning and Zoning.

ARTICLE 1504.2. CRIMINAL: The Zoning Inspector in consultation with County Attorney is authorized to develop any rules, procedures, processes and forms necessary to implement criminal proceedings under any ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under ARS Title 11 Chapter 6 County Planning and Zoning.

ARTICLE 1504.3. CIVIL: The Board of Supervisors hereby establishes the position of Hearing Officer to hear and decide all civil proceedings established by any Ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under ARS Title 11 Chapter 6 Planning and Zoning.*31

ARTICLE 1504.3.1

A) Hearing Officer

The individual (s) appointed by the Maricopa County Board of Supervisors to hear and decide all civil proceedings established by any ordinance, regulation, or provision enacted or adopted

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

by the Board of Supervisors under the authority granted by ARS Title 11, Chapter 6 County Planning and Zoning.

b) Zoning Inspector The Director of the Maricopa County Planning and Development Department or his/her designated representative.

ARTICLE 1504.3.2 NOTICE

Notice of the hearing shall be personally served on the alleged violator by the zoning inspector at least five days prior to the hearing. If the zoning inspector is unable to personally serve the notice, the notice may be served in the same manner prescribed for alternative methods of service by the Arizona rules of civil procedure. A notice served upon the alleged violator other than by personal service shall be served at least thirty days prior to the hearing.

The notice shall include information regarding the alleged violator's right to be represented by counsel or other designated representative and that failure of the alleged violator to provide timely written notification of an election to be represented by counsel or other designated representative constitutes a waiver of that right.

ARTICLE 1504.3.3 DISCOVERY

No pre-hearing discovery shall be permitted absent extraordinary circumstances.

ARTICLE 1504.3.4 CONTINUANCE

The hearing officer may, upon any motion of any party or on its own motion, continue the hearing for a period not exceeding 60 days, if it appears that the interests of justice so require. Absent extraordinary circumstances, no hearing shall be continued by the hearing officer without notice to both parties. The hearing officer, or his/her designated administrative assistant, shall notify both parties in writing of the new hearing date.

ARTICLE 1504.3.5 CONDUCT OF HEARING

- A. All testimony shall be given under oath.
- B. The hearing officer may, on his own motion, call and examine witnesses, including the defendant. No person may be examined at a hearing except

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

by the hearing officer, the defendant's attorney or designated representative, the zoning inspector or county attorney.

- C. The Arizona rules of evidence shall not apply before the hearing officer. Any evidence offered may be admitted subject to a determination by the hearing officer that the offered evidence is relevant and material and has some probative value to a fact at issue. This is not to be construed as abrogating any statutory provision relating to privileged communications.
- D. All witnesses for the county's case in chief, other than the defendant, shall be required to testify prior to the defendant being required to testify or to produce evidence. However, a witness not called to testify in the county's case in chief may be called in rebuttal to testify to an issue raised by the defense.
- E. The order of proceedings shall be as follows:
 - 1. Testimony of county's witnesses.
 - 2. Testimony of defense witnesses.
 - 3. Testimony of county's rebuttal witnesses, if any.
 - 4. Testimony of defense rebuttal witnesses, if any.
 - 5. Argument of the parties or their counsel or designated representative, if permitted by the hearing officer.
 - 6. Ruling by the hearing officer. The ruling may include the findings, conclusions and opinion of the hearing officer.
- F. A record of the proceedings shall be made by audiotape. In addition, a record of the proceedings may be made by a court reporter, if provided by the defendant at the defendant's expense.
- G. If no witness for the county, excluding defendant appears at the time set for the hearing, the hearing officer shall dismiss the complaint unless the hearing officer, for good cause shown, continues to another date.
- H. If the defendant fails to appear or be represented at the time set for the hearing, the allegations of the complaint shall be deemed admitted. If it appears from the face of the complaint that the defendant is in active military service, no default judgment may be entered. In such case, the hearing officer may notify the defendant's commanding officer, if known, of the defendant's failure to appear.

ARTICLE 1504.3.6 CIVIL PENALTIES

If the defendant, after default or hearing, is found responsible the hearing officer shall enter judgment for the county, impose civil sanction and

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

report the judgment to the zoning inspector. The defendant shall normally correct the violation (s) within 30 days from the hearing date. The hearing officer shall outline in the judgment a non-compliance and daily civil penalty to accrue, should the violation not be abated by the compliance date specified by the hearing officer.

ARTICLE 1504.3.7 RIGHT TO APPEAL

Immediately following judgment and imposition of civil sanction after hearing or default, the hearing officer shall deliver to the defendant a written notice of his right to appeal to the Board of Adjustment. Such notice shall state that a right to appeal exists, the applicable time limit, and the location and manner of filing the notice of appeal, and shall refer the defendant to the rules governing the appeal process to the Board of Supervisors. ^{*32}

ARTICLE 1504.3.8 RECORD ON APPEAL

The review shall be limited to the record of proceedings before the hearing officer and no new evidence shall be introduced. The record of proceedings shall include all pleadings and orders in the hearing officer's file, copies of all evidence submitted at the hearing, and a copy of the audiotape of the hearing. If the Board of Adjustment determines that a transcript of the audiotape is necessary, a transcript shall be prepared at the county's expense. A trial de novo (new trial) is not permitted. ^{*32}

ARTICLE 1504.3.9 NOTICE OF REVIEW

Upon receipt of the record from the hearing officer, the Board of Adjustment Recording Secretary shall place on the Board of Supervisor's Agenda and shall mail the parties written notice of the time and place of the hearing. The notice shall be mailed not less than 5 days prior to the meeting at which the matter will be heard. ^{*32}

ARTICLE 1504.3.10 REVIEW OF HEARING

The review shall be limited to an administrative review only. After consideration of the appeal and review of the record the Board of Adjustment may affirm the action of the hearing officer or decide that some procedural error existed and remand for further proceedings. ^{*32}

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

ARTICLE 1504.3.11 APPEAL TO SUPERIOR COURT

Judicial review of the Board of Adjustment's decision shall be pursuant to Arizona revised Statutes Title 12, Chapter 7, Article 6. ^{*32}

ARTICLE 1504.3.12

The Zoning Inspector in consultation with the Hearing Officer is authorized to develop any other rules, procedures, processes and forms necessary to implement civil proceedings under any Ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under ARS Title 11 Chapter 6 County Planning and Zoning.

ARTICLE 1504.4. ADMINISTRATIVE: The Zoning Inspector is authorized to develop any other rules, procedures, processes and forms necessary to implement any other enforcement action under any Ordinance, regulation, or provision enacted or adopted by the Board of Supervisors under ARS Title 11 Chapter 6 County Planning and Zoning.

ARTICLE 1504.5. ZONING CLEARANCE: ^{*1,**2,*5,*8}It shall be unlawful to construct, alter, repair or improve, remove or demolish, or to commence the creation, construction, alteration, removal or demolition of a building, structure or use without first filing with the Zoning Inspector an application in writing and obtaining a Zoning Clearance, except that such clearance shall not be required for:

1. Repairs or improvements of a value of less than **\$500 dollars**.
2. Fences or walls with an overall maximum finished height of **six feet or less**, unless said fence:
 - a. Is part of a pool barrier;
 - b. Serves to retain soil greater than **18 inches**, as measured vertically from finished grade;
 - c. Is associated with any hillside development;
 - d. Is used as a corral;
 - e. Is the primary use of the property, or
 - f. Is on a corner lot abutting a key lot as outlined in Section 601, Article 601.2.12 of this Ordinance.

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

3. A PROJECT THAT CONSISTS SOLELY OF THE GRADING AND/OR PAVING OF A RECORDED PUBLIC INGRESS/EGRESS EASEMENT LOCATED WITHIN THE AREAS AS SPECIFIED UNDER ARTICLE 1504.5.3.A AND 1504.5.3.B BELOW, IN WHICH CASE THE DEPARTMENT SHALL ONLY REQUIRE A ZONING CLEARANCE FOR THE AREA LOCATED WITHIN THE BOUNDARIES OF THE EASEMENT.

A. A NON-HILLSIDE AREA, OR

B. A HILLSIDE ROADWAY AREA WHICH WAS DISTURBED PRIOR TO OCTOBER 4, 2001.

C. TO DEMONSTRATE ENTITLEMENT TO THIS EXCEPTION, THE APPLICANT SHALL PROVIDE A COPY OF THE RECORDED EASEMENT AND, IF APPLICABLE, SHALL VERIFY THAT ANY HILLSIDE ROADWAY DISTURBANCE EXISTED PRIOR TO OCTOBER 4, 2001.

D. IN THE EVENT A GRADING AND PAVING PROJECT INVOLVES AN INGRESS/EGRESS EASEMENT OVER LAND LOCATED WITHIN UNDISTURBED HILLSIDE OR WITHIN HILLSIDE DISTURBANCE THAT OCCURRED AFTER OCTOBER 4, 2001, THE APPLICANT SHALL DEMONSTRATE COMPLIANCE WITH THE HILLSIDE REGULATIONS AS OUTLINED IN SECTION 1201 OF THIS ORDINANCE."

ARTICLE 1504.6. LIMITATION OF THE ZONING CLEARANCE: ^{*2, *6, *30} A Zoning Clearance shall not be issued for any building or structure on any lot or parcel unless the owner of the subject lot or parcel guarantees access to Maricopa County personnel and appropriate emergency service providers for the purposes of building inspections, zoning enforcement and the provision of emergency services and any and all public utilities servicing the site. An owner or his agent, by signing an application for a building permit, guarantees such access.

ARTICLE 1504.7. EXPIRATION OF ZONING CLEARANCES: ^{*3}

1504.7.1. Any Zoning Clearance authorized under the terms of this Ordinance shall expire and be considered void under the following circumstances:

1. **Six months** from the effective date of the Zoning Clearance provided the use or authorized building construction to accommodate the use have not actually commenced.

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

2. If the Building Permit (for which the Zoning Clearance issuance was a requirement) expires for any reason.
3. If the provisions of this Ordinance, under which the Zoning Clearance was originally issued, are amended such that the use would not meet the amended provisions, provided the construction or use has not actually commenced under valid Building Permit issuance, and provided a minimum of **six months** actually elapsed since the issuance of the Zoning Clearance.

1504.7.2. If a Zoning Clearance is expired, it shall be necessary to re-apply for a new Zoning Clearance in accordance with Chapter 15, Section 1504, Article 1504.5. herein, which shall be reviewed under the Ordinance provisions in effect at the time of the re-application.

ARTICLE 1504.8 DEVELOPMENT REVIEW: ^{*4} Prior to the issuance of a permanent Certificate of Occupancy for all buildings to be occupied by the public and/or a permanent final inspection for construction of a single-family residence or duplex, construction and/or development within the unincorporated area shall be in compliance with all conditions and plans approved by the Board of Supervisors, Board of Adjustment, and Zoning Clearances issued by staff. The Zoning Inspector shall enforce this section in the following manner:

- 1504.8.1. Enforce all conditions of approval by the Board of Supervisors or the Board of Adjustment.
- 1504.8.2. Withhold authorization for a permanent Certificate of Occupancy or permanent final inspection for any construction or development that has not complied with the conditions or plans approved by the Board of Supervisors, Board of Adjustment, and staff in the issuance of Zoning Clearances for Building Permit purposes. The Zoning Inspector may authorize the Chief Building Official to issue a permanent Certificate of Occupancy or permanent final inspection without posting the bond required in Chapter 15, Section 1504., Article 1504.8.3. Said authorization may only be given if:
 1. The value of the incomplete site improvements is less than **\$5,000**;
 2. No hazard to public health, safety and welfare would result; and
 3. Written confirmation by the owner that he will complete the required site improvements within a stated and acceptable time frame has been provided.

MARICOPA COUNTY ZONING ORDINANCE

Chapter 15 – VIOLATION, PENALTY & ENFORCEMENT

Failure to complete the improvements as indicated in writing shall be treated as a zoning violation in accordance with Sections 1501 through 1503 of this Ordinance.

- 1504.8.3. Allow a temporary Certificate of Occupancy for all buildings to be occupied by the public or a temporary final inspection for construction of a single-family residence or duplex if financial guarantees in the form of a bond is provided to the County. An acceptable bond would be payable to the County in the full amount of the improvement(s) yet to be completed. The Bond must specify a date for the completion of the improvement(s), which shall be no later than **one year** from the date of issuance. The term of the bond shall be as approved by the Zoning Inspector and may be extended for an additional year upon application. If the work is not done by the specified date, the County will cash the bond and deposit the funds in the County's General Fund. In addition, the County has the authority to require the owner to complete the improvements or vacate the structure until the improvements are complete. Notwithstanding any of the above, the Zoning Inspector may deny a temporary occupancy when he has determined that a hazard to public health, safety, or general welfare may result.

Date of Revisions			
*1	Revised 12-30-74	*5	Effective 1-19-01
*2	Added 12-30-74	*6	Revised 10-3-77
**2	Added 10-3-77	*8	Effective 9-18-10
*3	Added 5-16-90	*30	Effective 6-7-98
*4	Added 6-6-91	*31	Effective 4-9-05
		*32	Effective 11-03-10 - TA2010009